

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

EDWARD T. KENNEDY, :
v. Plaintiff, :
: No. 18-cv-00214-JLS
EQUIFAX, INC., RICHARD F. SMITH, :
AMERICAN BANKERS INSURANCE :
COMPANY OF FLORIDA, BARBARA :
LOPEZ, :
Defendants. :

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA, BARBRA
LOPEZ & STEVEN CRAIG LEMASTERS'
MEMORANDUM OF LAW IN SUPPORT OF THIER MOTION FOR EXTENSION
OF TIME TO RESPOND TO PLAINTIFF'S FIRST AMENDED COMPLAINT

Respectfully submitted,

By: /s/ JOSHUA UPIN

Dated: July 30, 2018

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Alexander J. Nassar, Esquire
PA Id. Nos. 308457/203541/313539
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Steven Craig LeMasters*

Pursuant to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure, Defendants American Bankers Insurance Company of Florida (“ABIC”), Barbara Lopez (“Lopez”), and Steven Craig LeMasters (“LeMasters”) (collectively, the “ABIC Defendants”) submit this Memorandum of Law in support of their Motion for an Extension of Time to Respond to the First Amended Complaint of Plaintiff Edward T. Kennedy (“Kennedy”). For the reasons stated herein, the ABIC Defendants respectfully request that this Court grant their Motion and permit them an additional thirty (30) days to respond to Kennedy’s First Amended Complaint.

I. BACKGROUND

This lawsuit was originally instituted by Kennedy on January 16, 2018 and was haphazardly styled as a single count breach of insurance contract claim against Equifax, Inc., Richard F. Smith, ABIC, and Lopez. Kennedy alleged that he was improperly denied benefits under an identity theft insurance policy. The case was dismissed by the Court *sua sponte* for failure to prosecute. It was then reopened on April 30, 2018 and Kennedy was permitted to file an Amended Complaint. The ABIC Defendants were subsequently served with Kennedy’s First Amended Complaint via the United States Marshal on July 11, 2018 although a return of service was never entered on the docket. Kennedy’s First Amended Complaint is a sprawling, nearly incomprehensible, diatribe purporting to state a claim for, *inter alia*, civil RICO.¹ The pleading also added LeMasters, ABIC’s Chief Executive Officer, as a named defendant.

The ABIC Defendants sought Kennedy’s consent for an extension of time to respond to his First Amended Complaint via letter and email on July 27, 2018. He replied to the request on

¹ It should be noted that Mr. Kennedy appears to be a serial pro se litigant, very possibly suffering from some sort of mental illness. He appears to have filed at least 21 lawsuits in various Federal District Courts over the last two years. A number of the cases appear similar to the instant action by their inclusion of grandiose allegations of conspiracy and damages claims in the multi-million dollar range but without any shred of supporting evidence. True and correct copies of the PACER search results using “plaintiff” and “Edward Thomas Kennedy” and “plaintiff” and “Edward T. Kennedy” as search parameters are incorporated herein and collectively attached hereto as Exhibit 2.

July 28, 2018 but, due to the rather non-responsive nature of Plaintiff's reply, undersigned counsel was unable to discern whether he was in agreement with the request. Specifically, rather than directly address counsel's request, Plaintiff instead indicated that he had filed an appeal of the Court's prior Order granting the Equifax Defendants' request for an extension of time to respond to the First Amended Complaint. A true and correct copy of the email exchange is incorporated herein and attached hereto as Exhibit 1.

For the reasons set forth below, the ABIC Defendants respectfully request an extension of time to respond to Kennedy's First Amended Complaint.

II. ARGUMENT

According to Fed. R. Civ. P. 6(b)(1)(A) the court may, pursuant to a party's request, extend the time within which a pleading must be filed if the requesting party demonstrates good cause and the request is made prior to the expiration of the deadline in question.

Here the deadline for the ABIC Defendant's response to the First Amended Complaint has not yet lapsed. Since the Second Amended Complaint was served on July 11th the standard twenty day response period permits them to file their response up to and including July 31, 2018. Moreover, good cause for an extension exists under the circumstances based on: 1) the voluminous and disjointed nature of Kennedy's First Amended Complaint; 2) the multitude of Defendants named in the case and the necessity of coordination amongst them; 3) the prior extension of time to respond already afforded to the Equifax defendants by this Court.

As mentioned above, Mr. Kennedy's Complaint is in excess of forty pages, is virtually incomprehensible, and pleads some 16 counts for relief. In order for the ABIC Defendants to appropriately parse the meaning and legitimacy of the allegations, perform sufficient internal factual investigations to adequately rebut his contentions, and generally fashion an appropriate response, additional time is required. Likewise, given the business interconnections between the

Equifax Defendants and ABIC Defendants, some integrated internal factual investigations between all Defendants is necessary here. Given their relative size and operational complexity it will take additional time for the appropriate responsive fact gathering to be completed.

Finally, the Court has already determined to extend the Equifax Defendants' time to respond to the First Amended Complaint and thus as a matter of fairness and consistency the ABIC Defendants respectfully request the same courtesy. And, Kennedy is not at risk of any prejudice if the extension of time is granted. Indeed, he has already demonstrated a characteristic lack of diligence for his part in moving this case along – he made no attempt at serving his first filed complaint even after six weeks had elapsed and then took almost two months to serve his First Amended Complaint on the ABIC Defendants after it was filed. As such, any suggestion that an additional thirty days will somehow prejudice Mr. Kennedy is belied by his own lackadaisical conduct.

III. CONCLUSION

Based on the foregoing fact, law, and argument, the ABIC Defendants' Motion for Extension of Time to Respond to Plaintiff's First Amended Complaint should be granted.

Respectfully submitted,

By: /s/ JOSHUA UPIN

Dated: July 30, 2018

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